

Message Text

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ACTION EA-09

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NSAE-00 USIA-15 TRSE-00 XMB-04 OPIC-06 SP-02 CIEP-02

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TAGS: EFIN, ECON, EINV, KS

SUBJECT: KOREA TO REVISE FOREIGN INVESTMENT LAWS

REF: 74 SEOUL 7263

SUMMARY: THE ECONOMIC PLANNING BOARD (EPB) IS CONSIDERING PROPOSING LEGISLATION IN SEPTEMBER WHICH WOULD TREAT NEW FOREIGN INVESTMENT OF THE SAME BASIS AS NEW DOMESTIC INVESTMENT, WITH INCENTIVES BASED SOLELY ON THE PRIORITY ASSIGNED TO THE PARTICULAR INDUSTRIAL SECTOR. THE PROPOSED LEGISLATION WOULD NOT BE RETROACTIVE, AND INCENTIVES ALREADY GRANTED TO FOREIGN INVESTORS WOULD CONTINUE TO BE HONORED. END SUMMARY.

1. ON APRIL 21, DEPUTY PRIME MINISTER NAM DUCK WOO (M/R: NAM TOK-U) DISCUSS POSSIBLE REVISION OF KOREA'S INVESTMENT LAWS WITH THE DIPLOMATIC CORPS' ECONOMIC AND COMMERCIAL OFFICERS. HE STATED THE GOAL OF THE REVISION IS TO ENCOURAGE FOREIGN INVESTMENT ON AN EQUAL BASIS WITH DOMESTIC INVESTORS ACCORDING TO OVERALL ECONOMIC NEEDS.

CONSEQUENTLY, A PROPOSAL IS BEING CONSIDERED WHICH REQUIRES THE DESIGNATION OF PRIORITY INDUSTRIES. THESE INDUSTRIES WOULD UNCLASSIFIED

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BE GROUPED INTO THREE CATEGORIES AND INDUCEMENTS WOULD BE

GRANTED ACCORDINGLY. THE TOP CATEGORY WILL INCLUDE INDUSTRIES ESSENTIAL TO NATIONAL SECURITY OR DEVELOPMENT. THE MIDDLE GROUP INCLUDES DESIRABLE INDUSTRIES THAT COULD BECOME DOMESTICALLY VIABLE. THE THIRD CATEGORY WILL INCLUDE CONSUMER GOODS. THE INDUCEMENTS WOULD APPLY TO THE INVESTMENT WITHOUT REGARD TO WHETHER THE INVESTOR WAS FOREIGN OR DOMESTIC. THOSE INDUSTRIES WHICH WOULD GET TOP PRIORITY AT THIS TIME ARE ELECTRONICS, CHEMICALS, AND MACHINE AND SHIPBUILDING INDUSTRIES. NAM STRESSED THAT CHANGES WOULD NOT BE RETROACTIVE.

2. DURING THE VISIT TO KOREA BY THE US-KOREA ECONOMIC COUNCIL, KIM CHAN-JIN (M/R KIM CH'AN-CHIN) DIRECTOR OF THE OFFICE OF FOREIGN CONTRACT REVIEW, EPB, BRIEFED THE DELEGATION MEMBERS ON THE SAME TOPIC. KIM INDICATED THAT THE FOREIGN CAPITAL INDUCEMENT LAW (FCIL) WHICH IS THE BASIC LAW GOVERNING ALL FOREIGN INVESTMENT, OFFERS MANY ADVANTAGES TO APPROVED FOREIGN INVESTMENTS. THESE INDUCEMENTS INCLUDE EXEMPTIONS FOR CAPITAL GOODS FROM CUSTOMS DUTIES, AND COMMODITY TAXES AS WELL AS SUCH BENEFITS AS A FIVE YEAR TAX HOLIDAY FOLLOWED BY A 50 PERCENT REDUCTION ON CORPORATE AND INCOME TAXES FOR NEXT 3 YEARS. ACCORDING TO KIM THERE ARE TWO CRITICISMS OF THE FCIL CURRENTLY CIRCULATING IN EPB. ONE IS THAT ALL APPROVED FOREIGN INVESTMENTS ARE TREATED EQUALLY REGARDLESS OF THEIR CONTRIBUTION TO THE KOREAN ECONOMY AND THE OTHER IS THAT FCIL INDUCEMENTS DISCRIMINATE AGAINST LOCAL INVESTORS.

3. THE MIDDLE LEVELS OF EPB ARE NOW CONDUCTING A COMPREHENSIVE STUDY OF THE EFFECTS OF FOREIGN INVESTMENT PROJECTS IN AN EFFORT TO CREATE A SCHEDULE OF INCENTIVES AND SUPPORT MEASURES TO ATTRACT INVESTMENTS IN STRATEGICALLY IMPORTANT AREAS WHICH WOULD APPLY EQUALLY TO FOREIGN AND DOMESTIC INVESTMENT. THE PRIORITY INDUSTRIES, WHICH WILL BE NAMED IN THE FOURTH FIVE YEAR PLAN TO BE ANNOUNCED IN AUGUST, WILL PROBABLY INCLUDE MACHINERY, ELECTRONICS, SHIPBUILDING, STEEL AND PETROCHEMICALS. INVESTMENT IN OTHER SECTORS WOULD BE WELCOMED BUT WOULD COMPETE ON AN EQUAL BASIS WITH DOMESTIC FIRMS WITHOUT SPECIAL INCENTIVES. REQUIREMENTS FOR MINIMUM INVESTMENTS IN THE HIGH PRIORITY CATEGORY MAY BE DISCONTINUED. HOWEVER, INVESTORS IN THE LOW PRIORITY CATEGORY WOULD BE REQUIRED TO MAKE A SUBSTANTIAL MINIMUM CAPITAL INVESTMENT.

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4. INVESTMENT APPROVAL PROCEDURES FOR THE LOW PRIORITY CATEGORY MAY BE SIMPLIFIED WITH A LIMITED NUMBER OF INDUSTRIAL SECTORS RESERVED FOR KOREAN ENTREPRENEURS. A PRELIMINARY DELIBERATION COMMITTEE TO SCREEN INVESTMENT PROPOSALS IS ALSO BEING CONSIDERED IN ORDER TO REDUCE THE WORKLOAD OF THE FOREIGN CAPITAL INDUCEMENT DELIBERATION COMMITTEE.

5. COMMENT: EPB OFFICIALS HAVE EMPHASIZED TO EMBOFFS THAT THE DRAFTING OF A NEW INVESTMENT PROMOTION LAW IS JUST BEGINNING AND THAT NO POSITIONS ARE YET ESTABLISHED. EPB OBJECTIVES ARE CLEAR, HOWEVER: (1) THE REDUCTION OF INCENTIVES IN NON-PRIORITY INDUSTRIES AND (2) EQUAL TREATMENT FOR FOREIGN AND DOMESTIC INVESTORS EXCEPT IN THE FEW FIELDS TO BE RESERVED TO KOREAN ENTREPRENEURS. THE NEW THRUST IN EPB THINKING ABOUT FOREIGN INVESTMENT INCENTIVES REFLECTS THE RAPID GROWTH OF KOREA'S INDUSTRIAL BASE AND KOREA'S FINANCIAL AND BUSINESS INSTITUTIONS OVER THE PAST DECADE. SINCE MOST U.S. INVESTMENT IN KOREA IS ALREADY IN FIELDS WHICH WOULD PROBABLY BE DESIGNATED HIGH PRIORITY, ADOPTION OF NEW LESISLATION ALONG THE LINES CURRENTLY CONTEMPLATED SHOULD HAVE NO SIGNIFICANT DETERRENT EFFECT ON THE LEVEL OF FUTURE U.S. INVESTMENT. DEPENDING ON THE INCENTIVES OFFERED TO THE HIGH PRIORITY CATEGORY, THE EFFECTIVE INDUCEMENT TO U.S. INVESTMENT AS A WHOLE COULD EVEN INCREASE.
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